IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: **Bassett et al.**	§	
	§	
Serial No.: **09/409,594**	§	Group Art Unit: **2623**
	§	
Filed: **September 30, 1999**	§	Examiner: **Salce, Jason P.**
	§	
For: **Method and Apparatus for User-**	§	Attorney Docket No.: **AT9-99-254**
Controlled Selective Overlay in a	§	
Streaming Media		

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Non-Compliant Appeal Brief was received by Applicant stating that "the appeal brief filed on November 8, 2007 is considered non-compliant because "(a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v))." A copy of the Notice of Non-Compliant Appeal Brief is attached hereto.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

In response to the Notification of Non-Compliant Appeal Brief dated November 20, 2007, please reconsider the holding of non-compliance as follows:

REMARKS

In the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on November 8, 2007, was held defective because "(a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(l)(v))."

In order to address the Examiner's concerns, a Supplemental Appeal Brief is submitted herewith. It is respectfully submitted that the Supplemental Appeal Brief filed herewith is in compliance with 37 C.F.R. § 41.37. Appellant respectfully requests that the Supplemental Appeal Brief be entered.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Date: <u>December 20, 2007</u>

Respectfully submitted,

<u>/James O. Skarsten/</u>
James O. Skarsten
Registration No. 28,346
Yee & Associates, P.C.
P.O. Box 802333
Dallas, Texas 75380
(972) 385-8777
ATTORNEY FOR APPLICANT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Bassett et al.**	§	
	§	Group Art Unit: **2623**
Serial No. **09/409,594**	§	
	§	Examiner: **Salce, Jason P.**
Filed: **September 30, 1999**	§	
	§	
For: **Method and Apparatus for User-**	§	
Controlled Selective Overlay in a	§	
Streaming Media		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

35525
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

SUPPLEMENTAL APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on September 11, 2007.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation of Armonk, New York.

RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

STATUS OF CLAIMS

A.   TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-9, 11-30, and 32-44.

B.   STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: 10 and 31.
2. Claims withdrawn from consideration but not canceled: NONE.
3. Claims pending: 1-9, 11-30, and 32-44.
4. Claims allowed: NONE.
5. Claims rejected: 1-9, 11-30, and 32-44.
6. Claims objected to: NONE.

C.   CLAIMS ON APPEAL

The claims on appeal are: 1-9, 11-30, and 32-44.

STATUS OF AMENDMENTS

An amendment after Final Rejection was not filed. Therefore, Claims 1-9, 11-30 and 32-44 on appeal herein are as amended in the Response to Office Action filed April 16, 2007.

SUMMARY OF CLAIMED SUBJECT MATTER

A.   CLAIM 1 - INDEPENDENT

The subject matter of claim 1 is directed to a method in a data processing system for user controlled selection of multimedia data streams for an event. (Specification, page 12, line 14 to page 13, line 8). The method includes receiving a set of video streams. (Specification, page 21, line 33, to page 22, line 2; **Figure 6,** items **610-614, Figure 8,** item **802**)The method further includes receiving a set of audio streams. (Specification, page 21, line 33 to page 13, line 8; **Figure 6,** items **604-608;** Figure **8,** item **802**) The method further includes selecting a subset of the set of video streams. (Specification, page 22, lines 15-19; **Figure 8,** item **811**) The method further includes selecting a subset of the set of audio streams. (Specification, page 22, lines 2-7; **Figure 8,** item **804**) The method further includes selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event, in response to user input to the data processing system, wherein the selecting step omits ones of the video stream subset while retaining the selected plurality of video streams, and omits ones of the audio stream subset while retaining other ones of the audio stream subset. (Specification, page 16, line 33 to page 17, line 7; page 18, lines 10-23; page 12, lines 27-29; page 14, lines 12-18; page 19, lines 16-17; and page 22, line 32 to page 23, line 10; **Figure 8,** items **806-808, 814-816**) The method further includes presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained other ones of the audio stream subset. (Specification, page 23, lines 10-11; **Figure 8,** items **818-820**)

B.   CLAIM 14 – INDEPENDENT

The subject matter of Claim 14 is directed to a method for tailoring a multimedia presentation of an event on a computerized multimedia system. (Specification, page 12, line 14, to page 13, line 8) The method includes providing a set of video streams, a set of audio streams and a set of information streams for the event via a network coupled to the computerized multimedia system. (Specification, page 13, line 31, to page 14, line 18; **Figure 5,** items **502, 504, 506, 510**) The method further includes receiving video streams for presentation from the set

of video streams. (Specification, page 12, lines 24-33, page 22, lines 15-19; **Figure 8**, item **802**) The method further includes receiving audio streams for presentation from the set of audio streams. (Specification, page 12, lines 24-33; page 22, lines 2-7; **Figure 8**, item **802**) The method further includes receiving information streams for presentation from the set of information streams. (Specification, page 12, lines 24-33; **Figure 5**, items **502, 510**) The method further includes selecting a plurality of the received video streams for the event, and also selecting one or more of the received audio streams for the event, in response to user input to the data processing system. (Specification, page 22, lines 2-7; page 22, lines 15-19; page 22, line 32 to page 23, line 10; page 16, line 33 to page 17, line 9; page 19, lines 16-17; page 12, lines 27-29; and page 14, lines 12-18; **Figure 8,** items **806-808, 814-816**) The method further includes assigning each video stream of the selected plurality of video streams and the selected audio streams to respective portions of video and audio output devices, in response to user input. (Specification, page 14, line 19 to page 15, line 23; **Figure 6**, items **604-608, 610-614**) The method further includes presenting each video stream of the selected plurality of video streams concurrently with one another for the event, and also concurrently with the selected audio streams. (Specification, page 23, lines 9-13; **Figure 8**, items **818-820**)

C.   CLAIM 22 – INDEPENDENT

The subject matter of Claim 22 is directed to a data processing system for user controlled selection of multimedia data streams for an event. (Specification, page 12, line 14 to page 13, lines 8; **Figure 3**, items **300, 302**) The system includes a first receiving means for receiving a set of video streams. (Specification, page 21, line 33, to page 22, line 2; **Figure 5**, items **500, 502**; **Figure 6**, items **610-614**) The system further includes a second receiving means for receiving a set of audio streams. (Specification, page 21, line 33 to page 22, line 2; **Figure 5**, item **502**; **Figure 6**, items **604-608**) The system further includes a first selecting means for selecting a subset of the set of video streams. (Specification, page 22, lines 15-19; **Figure 5**, items **500, 508**; **Figure 8**, item **811**) The system further includes a second selecting means for selecting a subset of the set of audio streams (Specification, page 22, lines 2-7; **Figure 5**, items **500, 508**; **Figure 8**, item **804**) The system further includes means for selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset

for the event, in response to user input to the data processing system, wherein the selecting step omits ones of the video stream subset while retaining the selected plurality of video streams, and omits one of the audio stream subset, while retaining other ones of the audio stream subset. (Specification, page 16, line 33 to page 17, line 7; page 18, lines 10-23; page 12, lines 27-29; page 14, lines 12-18; page 19, lines 16-17; and page 22, line 32 to page 23, line 10; **Figure 5**, items **500, 508**; **Figure 8**, items **806-808, 814-816**) The system further includes first presenting means for presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained ones of the audio stream subset. (Specification, page 23, lines 10-11; **Figure 5**, items **500, 506**; **Figure 8**, items **818-820**)

D.   CLAIM 35 – INDEPENDENT

The subject matter of Claim 35 is directed to a data processing system for tailoring a multimedia presentation of an event on a computerized multimedia system. (Specification, page 12, line 14, to page 13, line 8; **Figure 3**, items **300, 302**) The system includes a first providing means for providing a set of video streams, a set of audio streams and a set of information streams for the event via a network coupled to the computerized multimedia system. (Specification, page 13, lines 31, to page 14, line 18; **Figure 5**, items **502, 504, 506, 510**) The system further includes first selecting means for selecting video streams for presentation from the set of video streams for the event. (Specification, page 12, lines 24-33, page 22, lines 15-19; **Figure 8**, items **508, 510**; **Figure 8**, item **811**) The system further includes second selecting means for selecting audio streams for presentation from the set of audio streams. (Specification, page 12, lines 24-33, page 22, lines 2-7; **Figure 5**, items **508, 510**; **Figure 8**, item **804**) The system further includes third selecting means for selecting information streams for presentation from the set of information streams for the event. (Specification, page 12, lines 24-33; **Figure 5**, items **508, 510**) The system further includes fourth selecting means for selecting a plurality of the selected video streams for the event, and also selecting one or more of the selected audio streams for the event, in response to user input to the data processing system. (Specification, page 22, lines 2-7; page 22, lines 15-19; page 22, line 32 to page 23, line 10; page 16, line 33 to page 17, line 9; page 19, lines 16-17; page 12, lines 27-29; and page 14, lines 12-18; **Figure 5**, item **508**;

Figure 8, items **806-808**, **814-816**) The system further includes assigning means for assigning each video stream of the selected plurality of video streams and the selected audio streams to respective portions of video and audio output devices, in response to user input. (Specification, page 14, line 19 to page 15, line 23; **Figure 5**, items **504, 508**) The system further includes presenting means for presenting each video stream of the selected plurality of video streams concurrently with one another, and also concurrently with the selected audio streams. (Specification, page 23, lines 9-13; **Figure 5**, item **506**; **Figure 8**, items **818-820**)

E.   CLAIM 43 – INDEPENDENT

The subject matter of Claim 43 is directed to a computer program product in a computer readable medium for user controlled selection of multimedia data streams for an event. (Specification, page 12, line 14 to page 13, line 8) The product includes first instructions for receiving a set of video streams (Specification, page 10, lines 18-29; page 11, lines 25-29; page 21, line 33 to page 22, line 2; **Figure 3**, items **300-304, 326**) The product further includes second instructions for receiving a set of audio streams (Specification, page 10, lines 18-29; page 11, lines 25-29, page 21, line 33 to page 22, line 2; **Figure 3**, items **300-304, 326**) The product further includes third instructions for selecting a subset of the set of video streams. (Specification, page 22, lines 15-19; **Figure 8**, item **811**). The product further includes fourth instructions for selecting a subset of the set of audio streams (Specification, page 22, lines 2-7; **Figure 8**, item **804**) The product further includes fifth instructions for selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event, in response to user input to the data processing system, wherein the selecting step omits ones of the video stream subset while retaining the selected plurality of video streams, and omits ones of the audio stream subset, while retaining other ones of the audio stream subset. (Specification, page 16, line 33 to page 17, line 7; page 18, lines 10-23; page 12, lines 27-29; page 14, lines 12-18; page 19, lines 16-17; and page 22, line 32 to page 23, line 10; **Figure 8**, items **806-808, 814-816**) The product further includes sixth instructions for presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained other ones of the audio stream subset. (Specification, page 23, lines 10-11; **Figure 8**, items **818-820**)

F. CLAIM 44 – INDEPENDENT

The subject matter of Claim 44 is directed to a computer program product in a computer readable medium for tailoring a multimedia presentation of an event on a computerized multimedia system. (Specification, page 10, lines 18-29, page 14, lines 25-29 page 12, line 14, to page 13, line 8; **Figure 3**, items **300-304, 326**) The product includes first instructions for providing a set of video streams, a set of audio streams and a set of information streams for the event via a network coupled to the computerized multimedia system. (Specification, page 13, lines 31, to page 14, line 18; **Figure 5**, items **502-506, 510**) The product further includes second instructions for receiving video streams for presentation from the set of video streams. (Specification, page 12, lines 24-33, page 22, lines 15-19; **Figure 8**, item **802**) The product further includes third instructions for receiving audio streams for presentation from the set of audio streams. (Specification, page 12, lines 24-33, page 22, lines 2-7; **Figure 8**, item **802**) The product further includes fourth instructions for receiving information streams for presentation from the set of information streams. (Specification, page 12, lines 24-33; **Figure 5**, items **502, 510**) The product further includes fifth instructions for selecting a plurality of the received video streams for the event, and also selecting one or more of the received audio streams for the event, in response to user input to the data processing system. (Specification, page 22, lines 2-7; page 22, lines 15-19; page 22, line 32 to page 23, line 10; page 16, line 33 to page 17, line 9; page 19, lines 16-17; page 12, lines 27-29; and page 14, lines 12-18; **Figure 8**, items **806-808, 814-816**) The product further includes sixth instructions for assigning each video stream of the selected plurality of video streams and the selected audio streams to respective portions of video and audio output devices, in response to user input. (Specification, page 14, line 19 to page 15, line 23; **Figure 6**, items **604-608, 610-614**) The product further includes seventh instructions for presenting each video stream of the selected plurality of video streams concurrently with one another for the event, and also concurrently with the selected audio streams. (Specification, page 23, lines 9-13; **Figure 8**, items **818-820**)

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to review on appeal are as follows:

A.   GROUND OF REJECTION (Claims 1-9, 11-13, 22-30, 32-34 and 43)

Claims 1-9, 11-13, 22-30, 33-34 and 43 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

B.   GROUND OF REJECTION (Claims 1-9, 11-13, 22-30, 32-34 and 43)

Claims 1-9, 11-13, 22-30, 33-34 and 43 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

C.   GROUND OF REJECTION (Claims 14-21, 35-42 and 44)

Claims 14-21, 35-42 and 44 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement.

D.   GROUND OF REJECTION (Claims 14-21, 35-42 and 44)

Claims 14-21, 35-42 and 44 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

ARGUMENT

A. GROUND OF REJECTION 1 (1-9, 11-13, 22-30, 33-34 and 43)

Claims 1-9, 11-13, 22-30, 33-34 and 43 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

A.1. Rejection of Claim 1

Independent Claim 1 presently reads as follows:

> 1. A method in a data processing system for user controlled selection of multimedia data streams for an event, the method comprising:
> receiving a set of video streams;
> receiving a set of audio streams;
> selecting a subset of the set of video streams;
> selecting a subset of the set of audio streams;
> responsive to user input to the data processing system, selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event, wherein the selecting step omits ones of the video stream subset while retaining the selected plurality of video streams, and omits ones of the audio stream subset while retaining other ones of the audio stream subset; and
> presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained other ones of the audio stream subset.

In rejecting Claim 1 under 35 U.S.C. § 112, first paragraph, the Examiner stated the following:

> Claim 1-9, 11-30, 32-44 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The claims(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
> Referring to the independent claims, the Applicant has amended the claims to recited receiving a set of video streams, selecting a subset of the set of video streams, and selecting a plurality of video streams from the video stream subset for the event. Therefore, a three-step process is occurring, the receiving step, selection of a subset step and selecting a plurality of video streams from the subset. The examiner notes that a three-step process is not supported in the specification. The sections pointed to by the Applicant in the Arguments section of the current amendment points to the Summary of the Invention, which only states that set of

video streams are received and then responsive to a user input, selected video streams are assigned to the output device, The examiner further notes that nowhere in the specification is the limitation <u>subset</u> stated. At best the specification only teaches a two-step process, where a set of video streams are requested and only then are a plurality of the video streams selected upon receipt at the user's receiving device **[Final Office Action dated 06/29/2007, pp. 2-3]**

A.2. Pertinent Events in Prosecution of Application

On October 27, 2006, the Examiner mailed a Final Office Action which rejected all Claims 1-44 then pending in the Application. To overcome this rejection, Appellants mailed a set of amended claims to the USPTO on December 7, 2006. In an interview between the Examiner and Appellants' representative on January 10, 2007, it was agreed that the Claims 1-9, 11-30 and 32-44 submitted by Appellants on December 7, 2006 were acceptable. Such agreement is indicated by an Interview Summary dated January 16, 2007.

On the same date of January 16, 2007, the Examiner mailed an Office Action rejecting all pending claims, either under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,861,881, to *Freeman et al.*, or as being obvious under 35 U.S.C. § 103, in view of *Freeman* combined with U.S. Patent No. 4,316,285 to *Bobilin et al.* However, this Office Action did not reject any claims under 35 U.S.C. § 112, first paragraph. In view of the above events, Appellants' Claim 1, at the time when the Office Action of January 16, 2007 was mailed, read as follows:

> 1.   A method in a data processing system for user controlled selection of multimedia data streams for an event, the method comprising:
>
> receiving a set of video streams;
>
> receiving a set of audio streams;
>
> selecting ones of the set of video streams;
>
> selecting ones of the set of audio streams;
>
> responsive to user input to the data processing system, selecting ones of the selected video streams and ones of the selected audio streams for the event, wherein the selecting step omits ones of the selected video streams and ones of the selected audio streams, while retaining ones of the selected video streams and ones of the selected audio streams; and
>
> presenting the retained ones of the selected video streams and retained ones of the selected audio streams concurrently.

In preparing a response to the Office Action of January 16, 2007, Appellants considered the language of independent Claims 1, 22 and 43. In particular, Appellants considered that such language included repeated use of very similar terms, such as "selecting ones of the set of video streams", "selecting ones of the selected video streams", and "the selecting step omits ones of the selected video streams". While this terminology is considered perfectly adequate to clearly express all features of Claims 1, 22, and 43, Appellants recognized that such terms were closely associated with important patentable features of these claims. Accordingly, it would be necessary to use these terms extensively, in responding to the Office Action of January 16, 2007, in order to demonstrate the novelty and non-obviousness of Claims 1, 22 and 43. Appellants were concerned that the repeated use of such very similar terms could become awkward and confusing to readers.

As a result, in their Response to Office Action filed April 16, 2007 (hereinafter "Response"), Appellants amended Claims 1, 22 and 43, in order to replace some of the above terminology with other terms that were more easily distinguishable from one another. Each new term was chosen to be equivalent to the term which it replaced. Appellants stated their intent to do this in the Response, at page 15. Thus, the term "selecting ones" of the set of video streams was replaced with "selecting a subset" of the set of video streams, and "selecting ones of the selected video streams" was replaced with "selecting a plurality of video streams from the video stream subset". Also, "selecting ones" of the set of audio streams was replaced with "selecting a subset" of the set of audio streams.

A.3.   Claim 1 Unchanged in Meaning by Response Filed April 16, 2007

At **MPEP.2111.01**, it is clearly stated that the words of a claim must be given their plain meaning, and that ordinary, simple English words whose meaning is clear and unquestionable are construed to mean exactly what they say, absent any indication that their use in a particular context changes therein. Also, claim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art.

In view of these principles, those of ordinary skill in the art would readily understand that "selecting ones" of a set of elements is equivalent or identical to "selecting a subset" of the elements of the set. In each case, a number of discrete elements are selected from the set, in order to form a new and identifiable group. In the first case, the new group comprises the elements that are "the selected ones" of the set. In the second case, the new group comprises the elements that are in "the selected subset" of the set. Moreover, this equivalence in regard to the term "subset" is considered to be widely used and readily understood by patent practitioners. These considerations also apply to replacement of "selecting ones of the selected video streams" with "selecting a plurality of video streams from the video stream subset". Accordingly, each of the terms used to amend Claim 1 in the Response has exactly the same meaning as the term that it replaced. It follows that neither the meaning nor scope of current Claim 1 has been changed from the recitation of Claim 1 as of January 16, 2007.

Appellants consider that the equivalence of the two claim versions is emphasized further by comparing current Claim 1 with Claim 1 as it read on January 16, 2007. At present, Claim 1 recites "selecting a subset of the set of video streams", and further recites "selecting a plurality of video streams from the video stream subset". Current Claim 1 thus recites a two-part selection procedure. Similarly, Claim 1 on January 16, 2007, recited "selecting ones of the set of video streams", and further recited "selecting ones of the selected video streams". Thus, Claim 1 on January 16, 2007, recited the very same two-part selection procedure as the current recitation.

The application, such as at page 22 lines 15-19, teaches the above step of selecting a subset of video streams from a set of received video streams. The application also teaches, such as at page 16, line 33 – page 17, line 7, that the selected video streams can include video stream overlays. At page 18, lines 10-23, it is taught that some of these overlay streams are additionally selectable, so that a user can trigger or select a plurality of the overlay video streams.

For at least all of the above reasons, Claim 1 is considered to be in full compliance with the written description requirement of 35 U.S.C. § 112, first paragraph. Independent Claims 22 and 43 are directed to subject matter similar to that of Claim 1. Accordingly, Claims 22 and 43, as well as Claims 2-9 and 11-13, and 23-30 and 33-34, that depend from Claims 1 and 22, respectively, are likewise considered to be in full compliance with the written description requirement of 35 U.S.C. § 112, first paragraph.

Claims 1, 22 and 43 are each considered to distinguish over the Freeman reference, cited in the Office Action of January 16, 2007, for the reasons set forth in the Response, which are incorporated herein by reference.

B.   GROUND OF REJECTION (Claims 1-9, 11-13, 22-30, 32-34 and 43)

Claims 1-9, 11-13, 22-30, 33-34 and 43 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellants regard as the invention. More particularly, the claims were rejected under 35 U.S.C. § 112, second paragraph, for use of the term "omits ones of the video stream".

B.1.   Claims are Sufficiently Definite under 35 U.S.C. § 112, Second Paragraph

The United States Patent and Trademark Office (USPTO), at **MPEP 2173.02**, stresses that the analysis for definiteness is to be <u>reasonable</u>. Moreover, it is necessary to "consider the claim as a whole". Applying these standards in analyzing Claim 1, it is readily apparent that "omits ones of the video stream" is a portion of the statement "omits ones of the video stream <u>subset</u>" (emphasis added). Therefore, "video stream" is being used here as a modifier of "subset". Claim 1 teaches that the video stream subset is selected from a set of elements, wherein each element comprises a discrete video stream. Thus, the video stream subset of Claim 1 likewise comprises discrete video streams, and the term "omits ones of the video stream subset" can only mean omitting ones of discrete, or entire, video streams, and not a portion thereof.

For at least all of the above reasons, Claim 1 is considered to be sufficiently clear and definite to meet all requirements of 35 U.S.C. § 112, second paragraph. Independent Claims 22 and 43 are directed to subject matter similar to that of Claim 1. Accordingly, Claims 22 and 43, as well as Claims 2-9 and 11-13, and 23-30 and 33-34, that depend from Claims 1 and 22, respectively, are likewise considered to be sufficiently clear and definite under 35 U.S.C. § 112, second paragraph.

C.   GROUND OF REJECTION (Claims 14-21, 35-42 and 44)

Claims 14-21, 35-42 and 44 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement.

In the rejection under 35 U.S.C. § 112, first paragraph, in the Final Office Action, a "three-step process" is asserted, in association with Appellants' use of the term "subset". However, Appellants' Claim 14 does not use the term "subset", and the three-step process of the rejection does not appear to apply to Claim 14. To the extent that the basis for the rejection does apply to Claim 14, such rejection is considered to be overcome for at least the same reasons given above in support for Claim 1, with respect to rejection under 35 U.S.C. § 112, first paragraph. All such reasons, and all comments associated therewith, are incorporated herein by reference.

For at least all of the above reasons, Claim 14 is considered to be in full compliance with the written description requirement of 35 U.S.C. § 112, first paragraph. Independent Claims 35 and 44 are directed to subject matter similar to that of Claim 1. Accordingly, Claims 35 and 44, as well as Claims 15-21 and 36-42 that depend from Claims 14 and 35, respectively, are likewise considered to be in full compliance with the written description requirement of 35 U.S.C. § 112, first paragraph.

D.   Ground of Rejection (Claims 14-21, 35-42 and 44)

Claims 14-21, 35-42 and 44 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellants regard as the invention.

As stated above, the sole basis in the Final Office Action for the rejection under 35 U.S.C. § 112, second paragraph, is use of the term "omits ones of the video stream". However, none of the independent Claims 14, 35 or 44 uses or recites this term. Accordingly, this rejection does not apply to any of these claims.

For at least all of the above reasons, Claims 14, 35 and 44, as well as Claims 15-21 and 36-42 that depend from Claims 14 and 35, respectively, are considered to be sufficiently clear and definite to meet all requirements of 35 U.S.C. § 112, second paragraph.

/James O. Skarsten/
James O. Skarsten
Reg. No. 28,346
YEE & ASSOCIATES, P.C.
PO Box 802333
Dallas, TX 75380
(972) 385-8777

CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1. A method in a data processing system for user controlled selection of multimedia data streams for an event, the method comprising:

    receiving a set of video streams;

    receiving a set of audio streams;

    selecting a subset of the set of video streams;

    selecting a subset of the set of audio streams;

    responsive to user input to the data processing system, selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event, wherein the selecting step omits ones of the video streamsubset while retaining the selected plurality of video streams, and omits ones of the audio streamsubset while retaining other ones of the audio streamsubset; and

    presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained other ones of the audio stream subset.

2. The method of claim 1, wherein the retained plurality of video streams are presented on a display simultaneously with one another, and the method includes altering a location in the display in which at least one video stream of the retained plurality of video streams is presented.

3. The method of claim 1, further comprising:

    selecting different selected ones of the set of video streams for presentation simultaneously with one another.

4.   The method of claim 1, further comprising:

       selecting additional selected ones of the set of video streams for presentation simultaneously with one another.

5.   The method of claim 1, further comprising:

       selecting different selected ones of the set of audio streams for presentation.

6.   The method of claim 1, further comprising:

       selecting additional selected ones of the set of audio streams for presentation.

7.   The method of claim 1 further comprising:

       receiving a set of information streams including text; and

       responsive to user input, selectively presenting selected ones of the set of information streams on a display.

8.   The method of claim 1, wherein the set of video streams and the set of audio streams include time stamps and further comprising:

       synchronizing selected ones of the video stream with selected ones of the audio stream using the time stamps.

9.   The method of claim 1, wherein the set of video streams and the set of audio streams include data packets located in the video and audio data streams periodically and further comprising:

synchronizing selected ones of the video stream with selected ones of the audio stream using the data packets.

11.   The method of claim 1, wherein the data processing system is a computer.

12.   The method of claim 1, wherein the data processing system is a personal digital assistant.

13.   The method of claim 1, wherein the data processing system is a television.

14.   A method for tailoring a multimedia presentation of an event on a computerized multimedia system comprising the steps of:

providing a set of video streams, a set of audio streams and a set of information streams for the event via a network coupled to the computerized multimedia system;

receiving video streams for presentation from the set of video streams;

receiving audio streams for presentation from the set of audio streams;

receiving information streams for presentation from the set of information streams;

responsive to user input to the data processing system, selecting a plurality of the received video streams for the event, and also selecting one or more of the received audio streams for the event;

responsive to user input, assigning each video stream of the selected plurality of video

streams and the selected audio streams to respective portions of video and audio output devices; and

presenting each video stream the selected plurality of video streams concurrently with one another for the event, and also concurrently with the selected audio streams.

15.   The method of claim 14, wherein the step of selecting the plurality of video streams for presentation from the set of video streams for the event is performed in the computerized multimedia system.

16.   The method of claim 14, wherein the step of selecting audio streams for presentation from the set of audio streams for the event is performed in the computerized multimedia system.

17.   The method as recited in claim 14, wherein the set of video streams and the set of audio streams are provided from a first source.

18.   The method as recited in claim 17, further comprising:
responsive to user selection, providing additional video streams from a second source.

19.   The method as recited in claim 17, further comprising:
responsive to user selection, providing a second audio stream from a second source.

20.   The method as recited in claim 14, wherein the set of video streams, the set of audio streams, and the set of information streams are provided from at least two different sources.

21.   The method as recited in claim 14, wherein the set of video streams, the set of audio streams, and the set of information streams is provided via a broadband network.

22.   A data processing system for user controlled selection of multimedia data streams for an event, the data processing system comprising:

first receiving means for receiving a set of video streams;

second receiving means for receiving a set of audio streams;

first selecting means for selecting a subset of the set of video streams;

second selecting means for selecting a subset of the set of audio streams;

means, responsive to user input to the data processing system, for selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event, wherein the selecting step omits ones of the video streamsubset while retaining the selected plurality of video streams, and omits ones of the audio streamsubset, while retaining other ones of the selected audio stream subset; and

first presenting means for presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained ones of the audio stream subset.

23.   The data processing system of claim 22, further comprising:

altering means for altering a location in the display in which ones of the selected video streams are presented.

24.   The data processing system of claim 22, further comprising:

third selecting means for selecting different selected ones of the set of video streams presentation.

25.   The data processing system of claim 22, further comprising:

third selecting means for selecting additional selected ones of the set of video streams for presentation.

26.   The data processing system of claim 22, further comprising:

third selecting means for selecting different selected ones of the set of audio streams presentation.

27.   The data processing system of claim 22, further comprising:

third selecting means for selecting additional selected ones of the set of audio streams presentation.

28.   The data processing system of claim 22 further comprising:

third receiving means for receiving a set of information streams including text; and

second presenting means, responsive to user input, selectively for presenting selected ones of the set of information streams on a display.

29.   (Previously Presented) The data processing system of claim 22, wherein the set of video streams and the set of audio streams include time stamps and further comprising:

first synchronizing means for synchronizing selected ones of the video stream with the selected ones of the audio stream using the time stamps.

30.   The data processing system of claim 22, wherein the set of video streams and the set of audio streams include data packets located in the video and audio data streams periodically and further comprising:

first synchronizing means for synchronizing selected ones of the video stream with selected ones of the audio stream using the data packets.

32.   The data processing system of claim 22, wherein the data processing system is a computer.

33.   The data processing system of claim 22, wherein the data processing system is a personal digital assistant.

34.   The data processing system of claim 22, wherein the data processing system is a television.

35.   A data processing system for tailoring a multimedia presentation of an event on a computerized multimedia system, the data processing system comprising:

first providing means for providing a set of video streams, a set of audio streams and a set of information streams for the event via a network coupled to the computerized multimedia system;

first selecting means for selecting video streams for presentation from the set of video streams;

second selecting means for selecting audio streams for presentation from the set of audio streams;

third selecting means for selecting information streams for presentation from the set of information streams;

fourth selecting means for, responsive to user input to the data processing system, selecting a plurality of the selected video streams for the event, and also selecting one or more of the selected audio streams for the event;

assigning means, responsive to user input, for assigning each video stream of the selected plurality of video streams and the selected audio streams to respective portions of video and audio output devices; and

presenting means for presenting each video stream of the selected plurality of video streams concurrently with one another, and also concurrently with the selected audio streams.

36.   The data processing system of claim 35, wherein the first selecting means includes selecting video streams for presentation from the set of video streams for the event is performed in the computerized multimedia system.

37.   The data processing system of claim 35, wherein the second selecting means for selecting audio streams for presentation from the set of audio streams for the event is performed in the computerized multimedia system.

38.   The data processing system as recited in claim 35, wherein the set of video streams and the set of audio streams are provided from a first source.

39.   The data processing system as recited in claim 38, further comprising, responsive to user selection, providing a second video stream from a second source.

40.   The data processing system as recited in claim 38, further comprising:

second providing means, responsive to user selection, for providing a second audio stream from a second source.

41.   The data processing system as recited in claim 35, wherein the set of video streams, the set of audio streams, and the set of information streams are provided from at least two different sources.

42.   The data processing system as recited in claim 35, wherein the set of video streams, the set of audio streams, and the set of information streams is provided via a broadband network.

43.   A computer program product in a computer readable medium for user controlled selection of multimedia data streams for an event, the computer program product comprising:

first instructions for receiving a set of video streams;

second instructions for receiving a set of audio streams;

third instructions for selecting a subset of the set of video streams;

fourth instructions for selecting a subset of the set of audio streams;

fifth instructions, responsive to user input to the data processing system, for selecting a plurality of video streams from the video stream subset for the event and one or more audio streams from the audio stream subset for the event, wherein the selecting step omits ones of the video stream subset while retaining the selected plurality of video streams, and omits ones of the audio stream subset, while retaining other ones of the audio stream subset; and

sixth instructions for presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained other ones of the audio stream subset concurrently.

44.   A computer program product in a computer readable medium for tailoring a multimedia presentation of an event on a computerized multimedia system comprising:

first instructions for providing a set of video, audio and information streams for the event via a network coupled to the computerized multimedia system;

second instructions for receiving video streams for presentation from the set of available video streams;

third instructions for receiving audio streams for presentation from the set of available audio streams;

fourth instructions for receiving information streams for presentation from the set of available information streams;

fifth instructions for, responsive to user input to the data processing system, selecting a plurality of the received video streams for the event, and also selecting one or more of the received audio streams for the event;

sixth instructions, responsive to user input, for assigning each video stream of the selected plurality of video streams and the selected audio streams to respective portions of video and audio output devices; and

seventh instructions for presenting each video stream of the selected plurality of video streams concurrently with one another for the event, and also concurrently with the selected audio streams.

EVIDENCE APPENDIX

There is no evidence to be presented.

RELATED PROCEEDINGS APPENDIX

Note: An appendix containing copies of <u>decisions</u> rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

There are no related proceedings.

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,594	09/30/1999	RONALD W. BASSETT	AT9-99-254	5602

35525	7590	11/20/2007

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 11/20/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/409,594	Applicant(s) BASSETT ET AL.
	Examiner J. Salce	Art Unit 2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on <u>08 November 2007</u> is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

<u>c(5) The summary of claimed subject matter does not map the independent claims(1,14) on appeal to the specification by page, and line numbers and to the drawings if any.</u>
<u>The entire brief is not required, only the section that was found defective.:</u>

DARLENE BROWN
PATENT APPEAL CENTER SPECIALIST